



113 West Mountain Street  
Fayetteville, AR 72701  
(479) 575-8323

**Ordinance: 6332**

---

**File Number: 2020-0589**

**AMEND § 178.02 SIDEWALK CAFES:**

AN ORDINANCE TO AMEND § 178.02 **SIDEWALK CAFES** TO REMOVE CERTAIN PERMITTING REQUIREMENTS DURING THE PERIOD OF THE COVID-19 PANDEMIC, TO TEMPORARILY AUTHORIZE THE USE OF PAID PUBLIC PARKING SPACES AS SIDEWALK CAFES BY ADJACENT BUSINESSES UPON PAYMENT OF THE APPROPRIATE FEES, TO CLARIFY THE AUTHORIZED AREAS OF OPERATION OF BUSINESSES IN AN ENTERTAINMENT DISTRICT, AND TO DECLARE AN EMERGENCY

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:**

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby amends **§ 178.02 - Sidewalk Cafes** of the Fayetteville Unified Development Code by enacting a new subsection (D) as follows:

*“(D) Temporary Measures During Declared COVID-19 Public Health Emergency.*

- (1) During any period of the COVID-19 public health emergency, as declared by the Mayor, Governor, or President:
  - (a) The City shall waive application/permit fees and permitting steps described in subsection (B) above.
  - (b) The City shall waive that portion of subsection (C)(1) requiring a detailed site plan and written description but all sidewalk cafes shall comply with the remaining requirements of subsection (C).
  - (c) The Mayor shall be authorized to reserve paid public parking spaces for the exclusive use by adjacent businesses as sidewalk cafes upon payment of the parking

---

fees established in Article III - Parking Meters of Chapter 72 **Parking Regulations**.

The Mayor shall be authorized to promulgate any rules or conditions necessary to ensure the safety of customers and staff and the equitable use of the City's public parking spaces.

- (2) The provisions of this subsection shall expire at the end of the declared COVID-19 public health emergency."

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby repeals subsection (E) of § 111.07 **Outdoor Refreshment Area** and enacts a new subsection (E) as follows:

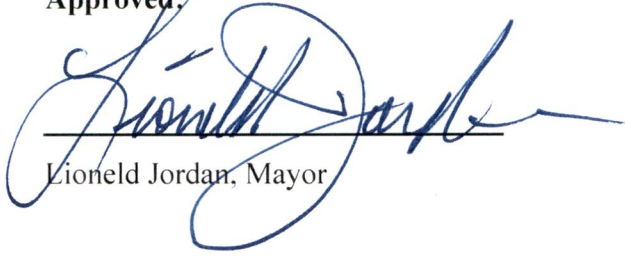
*“(E) Sidewalk Cafes and Outdoor Spaces in Outdoor Refreshment Areas.* If an owner within the Outdoor Refreshment Area is authorized to operate a sidewalk café pursuant to §178.02 of the Unified Development Code or has an outdoor space located on private property:

- (1) The owner may serve and allow the possession and consumption of alcoholic beverages in open containers during the hours of operation and in the areas authorized by the sidewalk café permit or in the outdoor space during the owner's posted hours of operation.
- (2) Glass containers, aluminum cans, and other types of drinkware shall be allowed in sidewalk cafes and outdoor spaces but shall not be removed from those areas.
- (3) No fencing or other enclosure of a permitted sidewalk café or outdoor space located within a designated outdoor refreshment area shall be required.
- (4) Outdoor spaces include, but are not limited to, parking areas, fields, lawns, patios, and gardens as long as they are located on private property and the owner is authorized to utilize those spaces."

Section 3: That the City Council of the City of Fayetteville, Arkansas hereby determines that this ordinance should become effective without delay because it will provide opportunities for Fayetteville dining establishments, residents, and visitors to comply with the directives issued by the Arkansas Department of Health regarding limited occupancy and social distancing, which are necessary for the public peace as well as the health and safety of Fayetteville residents. Therefore, the City Council hereby declares an emergency exists such that this ordinance shall become effective immediately upon its passage and approval.

PASSED and APPROVED on 7/14/2020

**Approved:**

  
Lioneld Jordan, Mayor

**Attest:**

  
Kara Paxton, City Clerk Treasurer





# City of Fayetteville, Arkansas

113 West Mountain Street  
Fayetteville, AR 72701  
(479) 575-8323

## Text File

File Number: 2020-0589

Agenda Date: 7/14/2020

Version: 1

Status: Passed

In Control: City Council Special Meeting

File Type: Ordinance

Agenda Number: A. 1

### AMEND § 178.02 SIDEWALK CAFES:

AN ORDINANCE TO AMEND § 178.02 **SIDEWALK CAFES** TO REMOVE CERTAIN PERMITTING REQUIREMENTS DURING THE PERIOD OF THE COVID-19 PANDEMIC, TO TEMPORARILY AUTHORIZE THE USE OF PAID PUBLIC PARKING SPACES AS SIDEWALK CAFES BY ADJACENT BUSINESSES UPON PAYMENT OF THE APPROPRIATE FEES, TO CLARIFY THE AUTHORIZED AREAS OF OPERATION OF BUSINESSES IN AN ENTERTAINMENT DISTRICT, AND TO DECLARE AN EMERGENCY

### BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby amends § 178.02 - **Sidewalk Cafes** of the Fayetteville Unified Development Code by enacting a new subsection (D) as follows:

*“(D) Temporary Measures During Declared COVID-19 Public Health Emergency.*

- (1) During any period of the COVID-19 public health emergency, as declared by the Mayor, Governor, or President:
  - (a) The City shall waive application/permit fees and permitting steps described in subsection (B) above.
  - (b) The City shall waive that portion of subsection (C)(1) requiring a detailed site plan and written description but all sidewalk cafes shall comply with the remaining requirements of subsection (C).
  - (c) The Mayor shall be authorized to reserve paid public parking spaces for the exclusive use by adjacent businesses as sidewalk cafes upon payment of the parking fees established in Article III - Parking Meters of Chapter 72 **Parking Regulations**. The Mayor shall be authorized to promulgate any rules or conditions necessary to ensure the safety of customers and staff and the equitable use of the City’s public parking spaces.
- (2) The provisions of this subsection shall expire at the end of the declared COVID-19 public health emergency."

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby repeals subsection (E) of § 111.07 **Outdoor Refreshment Area** and enacts a new subsection (E) as follows:

*“(E) Sidewalk Cafes and Outdoor Spaces in Outdoor Refreshment Areas. If an owner within the Outdoor*



Refreshment Area is authorized to operate a sidewalk café pursuant to §178.02 of the Unified Development Code or has an outdoor space located on private property:

- (1) The owner may serve and allow the possession and consumption of alcoholic beverages in open containers during the hours of operation and in the areas authorized by the sidewalk café permit or in the outdoor space during the owner's posted hours of operation.
- (2) Glass containers, aluminum cans, and other types of drinkware shall be allowed in sidewalk cafes and outdoor spaces but shall not be removed from those areas.
- (3) No fencing or other enclosure of a permitted sidewalk café or outdoor space located within a designated outdoor refreshment area shall be required.
- (4) Outdoor spaces include, but are not limited to, parking areas, fields, lawns, patios, and gardens as long as they are located on private property and the owner is authorized to utilize those spaces."

Section 3: That the City Council of the City of Fayetteville, Arkansas hereby determines that this ordinance should become effective without delay because it will provide opportunities for Fayetteville dining establishments, residents, and visitors to comply with the directives issued by the Arkansas Department of Health regarding limited occupancy and social distancing, which are necessary for the public peace as well as the health and safety of Fayetteville residents. Therefore, the City Council hereby declares an emergency exists such that this ordinance shall become effective immediately upon its passage and approval.

City of Fayetteville Staff Review Form

2020-0589

Legistar File ID

7/14/2020

City Council Meeting Date - Agenda Item Only

N/A for Non-Agenda Item

Mary McGetrick

7/13/2020

DEVELOPMENT SERVICES (620)

Submitted By

Submitted Date

Division / Department

**Action Recommendation:**

Approval of an emergency ordinance which streamlines the sidewalk café process and parklet development process for use by restaurants, bars, performance venues, and other businesses.

**Budget Impact:**

Account Number

Fund

Project Number

Project Title

Budgeted Item? No

Current Budget \$ -

Funds Obligated \$ -

Current Balance \$ -

Does item have a cost? No

Item Cost

Budget Adjustment Attached? No

Budget Adjustment

Remaining Budget \$ -

V20180321

Purchase Order Number:

Previous Ordinance or Resolution # 6322

Change Order Number:

Approval Date:

Original Contract Number:

Comments:



**MEETING OF JULY 14, 2020**

**TO:** Mayor and City Council

**THRU:** Susan Norton, Chief of Staff  
Garner Stoll, Development Services Director

**FROM:** Mary McGetrick, Long Range Planner  
Devin Howland, Director of Economic Vitality

**DATE:** July 9, 2020

**SUBJECT: Emergency use of ROW and Metered Parking Spaces by Restaurants, Bars, and Other Businesses who hold alcohol permits**

---

**RECOMMENDATION:**

Staff is recommending approval of an emergency ordinance which streamlines the sidewalk café process and parklet development process for use by restaurants, bars, performance venues, and other businesses.

**BACKGROUND:**

While the use of sidewalk space and parking spaces are currently allowed through the sidewalk café permit process and tactical urbanism process, this ordinance expedites the process for businesses wishing to utilize one or both in hopes of providing safer options for expanded social distancing during the pandemic.

**DISCUSSION:**

This ordinance waives the fees and permitting steps associated with obtaining sidewalk café permits (such as the application process, notification requirements, application fees, and posting of a surety bond), but retains the provisions which ensures their safe use and that ADA access is maintained. This adjustment would enable various businesses such as a restaurant, to explore on their own if sidewalk seating is something their business could benefit from during the pandemic. This amendment would interface well with the Outdoor Refreshment Ordinance and allow businesses the opportunity to be creative and try new things quickly without remitting fees or permit review. Sidewalk cafes could be utilized by restaurants, bars, performance venues and other businesses looking to expand outdoor seating.

This ordinance also encourages expanded use of parklets within City-owned right-of-way by developing a set of guidelines, that if followed, enable development and use without an initial development services review. This approach replaces regulatory provisions by providing technical assistance to businesses. Parklets could be developed by any business looking to expand their services to a safe outdoor environment.

Section two amends the sidewalk café provisions of the entertainment district ordinance in anticipation of the Outdoor Refreshment Area's being utilized in other places throughout the City. Currently, staff has been able to permit the outdoor services areas and sidewalk café permits without any issue due to the abundance of right-of-way and sidewalks in Downtown. Other areas throughout the City that will likely be utilized for expanded outdoor service will not be adjacent to public streets or sidewalks. However, their parking lots, lawns, and patios may not be within their Alcoholic Beverage Control Division permit area. Once other ORAs have been established, customers would still be able to take alcoholic refreshments outside, even without the business going through the ABC Outdoor Service Area process. This alteration would also be applicable to bars as well, whereas the ABC Outdoor Service Area process is limited to restaurants.

**BUDGET/STAFF IMPACT:**

N/A

**Attachments:**

Ordinance

Parklet Design Guidelines



# PARKLET DESIGN

The parklet design and location shall conform to the following design guidelines, as well as any additional standards made at the discretion of the Development Services Department.

## 1. LOCATIONS

Each parklet shall be limited to utilizing no more than three (3) parking spaces directly adjacent to the applicable business and located at least one parking stall from a corner and other parklets.

## 2. CORNER LOCATIONS

The proposed parklet site shall be located at least one parking spot from a corner or protected by a bollard, sidewalk bulb-out, or other similar feature, if located at the corner.

## 3. SPEED LIMIT

Parklets are permitted where the posted speed limit is 30 mph or less. Streets with higher speed limits may be considered on a case-by-case basis.

## 4. STREET SLOPE

Parklets must be situated on streets with a running slope (grade) of five percent or less or provide a level surface to meet this grade.

## 5. BUFFERS & SAFETY ELEMENTS

Parklets shall be required to have a buffer to protect users from street traffic. Buffers can be either reflective tape, planters, durable seating, temporary railing/edging, or other visible, protective edging as approved by staff in the application process. Parklets shall be required to have soft hit posts and wheel stops. Parklets must be situated a minimum of 2 feet from the nearest edge of traveled way. Planters used as edging features are required to be large and durable.

## 6. UTILITIES

Parklets shall not be allowed in front of a fire hydrant, or over a manhole, public utility valve, or cover. Curb and roadside drainage shall not be impeded by the parklet. If decking is being constructed, the decking should allow for easy access underneath and curbside drainage shall not be impeded. A gap of 6" should be maintained between the body of the deck and the asphalt to facilitate the movement of water.

## 7. ADA REQUIREMENTS

All elements of Parklets shall be constructed and/or installed to conform to the applicable provisions, rules, regulations, and guidelines of the Americans with Disabilities Act (ADA). Tables

## 8. DESIGN FOR EASY REMOVAL

Parklets are temporary in nature and must be designed for easy removal. All removable furniture must be locked or stowed each night.

## 9. PARKLET DECKING

Parklet decking must be flush with the curb and may not have more than ½" gap from the curb. If decking is installed, a minimum 36" ADA accessible entryway to the parklet must be maintained. Platforms shall not exceed a 2% cross slope. Deck installation shall not damage the sidewalk, street, curb, or any aspect of the public right-of-way. Due to the temporary nature of the parklet, any proposed decking shall not be allowed to be bolted into the asphalt and must include semi-permanent materials installed in a way that does not require reconfiguring the roadway or pouring concrete.

## 10. EDGING

All proposed edging shall be visually permeable. Due to the temporary nature of the parklets, all edging or railing shall not be bolted to the asphalt. The temporary railing shall be durable enough to stand on its own and should have a sturdy base.

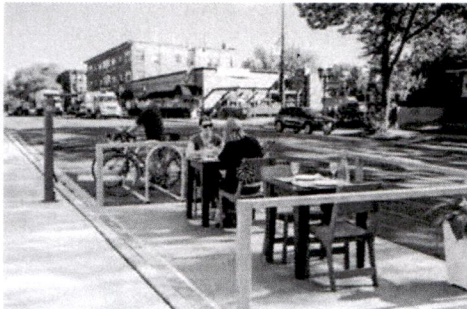
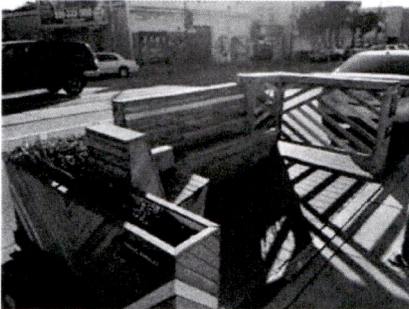
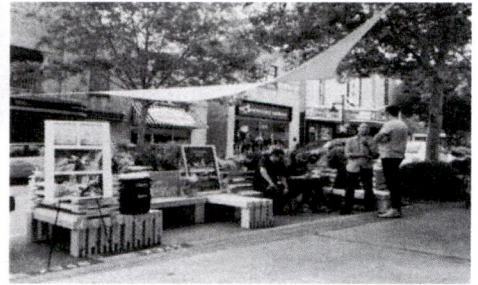
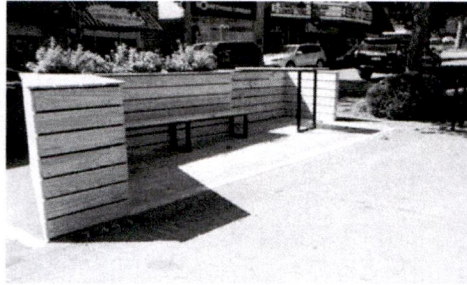
## 11. VISUAL DESIGN

Parklet designs must maintain a visual connection to the street and not obstruct sight lines to existing businesses or roadway signage. While not visible from the sidewalk, the parklet's back is highly visible from across the street. Large blank walls, therefore, are discouraged.

## 12. MATERIALS

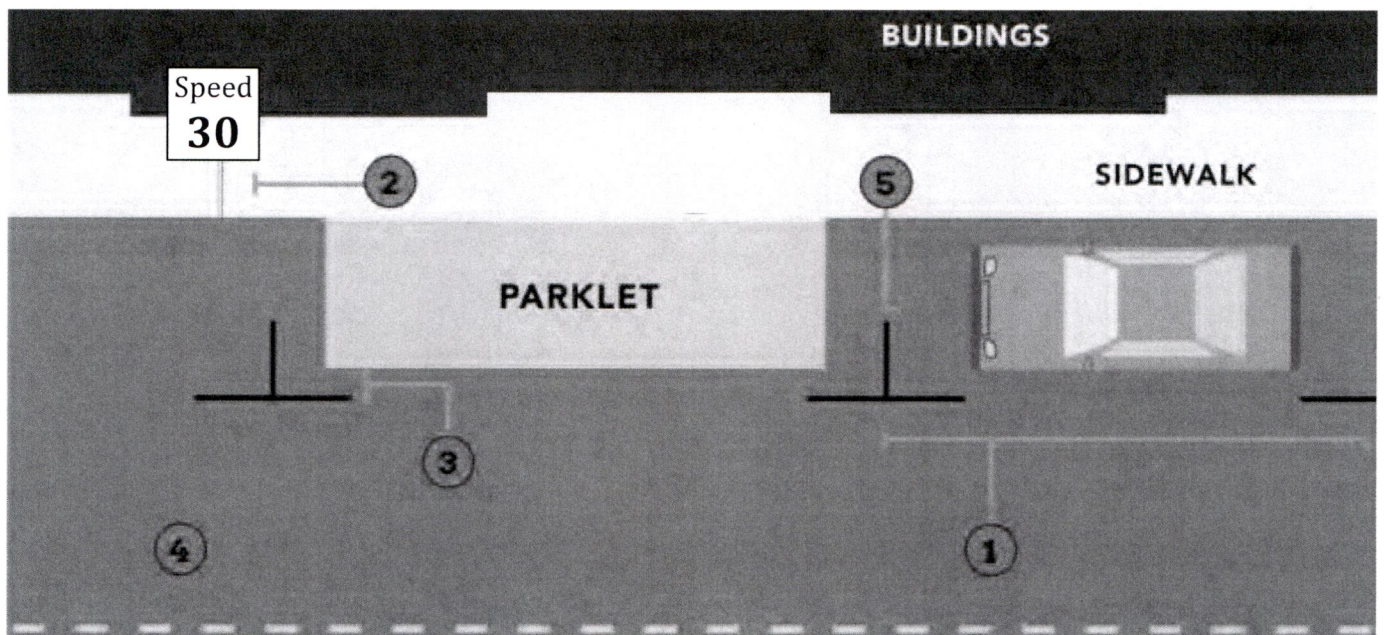
Materials should be high quality, durable, waterproof, and capable of withstanding heavy use and exposure to the elements. Loose particles such as sand or loose stone are not permitted within the parklet area. All furniture must be designed for outdoor use. The following images outline allowed material and furniture types. Sofas as parklet furniture is prohibited. All materials and seating or table constructions and configurations are subject to inspection and may require a permit at the discretion of Development Services Department staff.

**Allowed materials:** metals, sturdy plastic chairs, wood, sturdy recycled materials





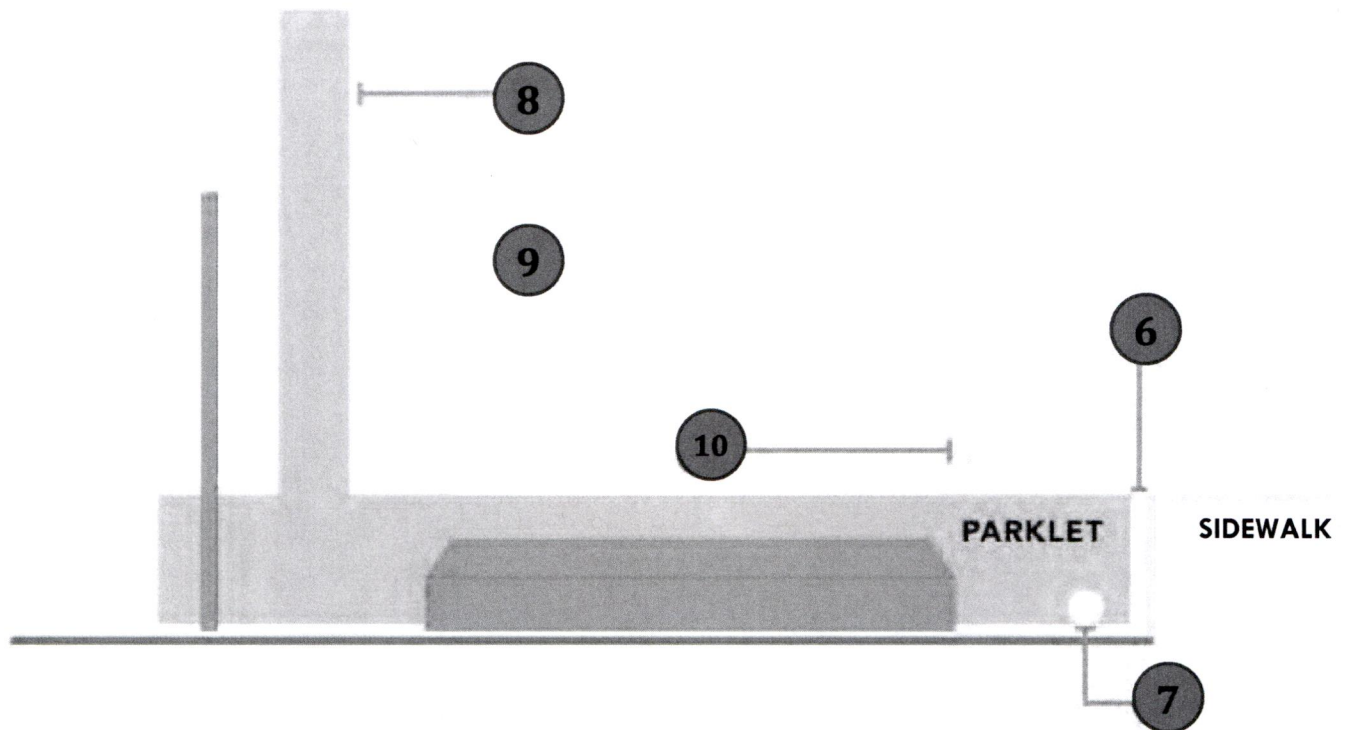
## PLACEMENT GUIDELINES



1. Located at least one parking stall from a corner (*if located at corner, parklet must be protected by a bollard, sidewalk bulb-out, or other similar feature*).
2. In an area with a posted speed limit of 30mph or slower.
3. Minimum of 2 feet from the nearest edge of traveled way.
4. Street has a grade of no greater than 5%. Tables positioned at a grade of no greater than 2%.
5. Buffer to protect users from street traffic.



## DESIGN, cont.



6. If decking is installed, decking must be flush with the curb and may not have more than  $\frac{1}{2}$ " gap from the curb. If this is impossible, the parklet must be ADA accessible. A minimum 36" ADA accessible entryway to the parklet must be maintained for all parklets.
7. The platform should allow for easy access underneath the platform and curbside drainage may not be impeded. A gap of 6" should be maintained between the body of the deck and the asphalt to facilitate the movement of water.
8. All edging shall be visually permeable.
9. The temporary railing shall be durable enough to stand on its own and should have a sturdy base.



## Parklet Regulations

Business owners are responsible for the following. Additional requirements and further details may be requested at the discretion of the Development Services Department.

- Keep parklet well maintained and in good repair with daily cleaning.
- Keep parklet free of debris, grime, and graffiti.
- Water and maintain all parklet vegetation.
- Provide pest control as needed.
- Amplified music is prohibited in the parklet.

**ORDINANCE NO.** \_\_\_\_\_

AN ORDINANCE TO AMEND § 178.02 **SIDEWALK CAFES** TO REMOVE CERTAIN PERMITTING REQUIREMENTS DURING THE PERIOD OF THE COVID-19 PANDEMIC, TO TEMPORARILY AUTHORIZE THE USE OF PAID PUBLIC PARKING SPACES AS SIDEWALK CAFES BY ADJACENT BUSINESSES UPON PAYMENT OF THE APPROPRIATE FEES, TO CLARIFY THE AUTHORIZED AREAS OF OPERATION OF BUSINESSES IN AN ENTERTAINMENT DISTRICT, AND TO DECLARE AN EMERGENCY

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:**

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby amends § 178.02 – **Sidewalk Cafes** of the Fayetteville Unified Development Code by enacting a new subsection (D) as follows:

“(D) *Temporary Measures During Declared COVID-19 Public Health Emergency.*

- (1) During any period of the COVID-19 public health emergency, as declared by the Mayor, Governor, or President:
  - (a) The City shall waive application/permit fees and permitting steps described in subsection (B) above; and
  - (b) The City shall waive that portion of subsection (C)(1) requiring a detailed site plan and written description but all sidewalk cafes shall comply with the remaining requirements of subsection (C)
  - (c) The Mayor shall be authorized to reserve paid public parking spaces for the exclusive use by adjacent businesses as sidewalk cafes upon payment of the parking fees established in Article III – Parking Meters of Chapter 72 **Parking Regulations**. The Mayor shall be authorized to promulgate any rules or conditions necessary to ensure the safety of customers and staff and the equitable use of the City’s public parking spaces.
- (2) The provisions of this subsection shall expire at the end of the declared COVID-19 public health emergency.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby repeals subsection (E) of § 111.07 **Outdoor Refreshment Area** and enacts a new subsection (E) as follows:

“(E) *Sidewalk Cafes and Outdoor Spaces in Outdoor Refreshment Areas.* If an owner within the Outdoor Refreshment Area is authorized to operate a sidewalk café pursuant to §178.02 of the Unified Development Code or has an outdoor space located on private property:

- (1) The owner may serve and allow the possession and consumption of alcoholic beverages in open containers during the hours of operation and in the areas authorized by the sidewalk café permit or in the outdoor space during the owner’s posted hours of operation;
- (2) Glass containers, aluminum cans, and other types of drinkware shall be allowed in sidewalk cafes and outdoor spaces but shall not be removed from those areas; and

- (3) No fencing or other enclosure of a permitted sidewalk café or outdoor space located within a designated outdoor refreshment area shall be required.
- (4) Outdoor spaces include, but are not limited to, parking areas, fields, lawns, patios, and gardens as long as they are located on private property and the owner is authorized to utilize those spaces.

Section 3: That the City Council of the City of Fayetteville, Arkansas hereby determines that this ordinance should become effective without delay because it will provide opportunities for Fayetteville dining establishments, residents, and visitors to comply with the directives issued by the Arkansas Department of Health regarding limited occupancy and social distancing, which are necessary for the public peace as well as the health and safety of Fayetteville residents. Therefore, the City Council hereby declares an emergency exists such that this ordinance shall become effective immediately upon its passage and approval.

**PASSED** and **APPROVED** this 21<sup>st</sup> day of July, 2020.

APPROVED:

By:

  
**LIONELD JORDAN**, Mayor

ATTEST:

By:

  
**KARA PAXTON**, City Clerk/Treasurer

